

under § 4211.12 if the method or modification is applicable only to its employers that are not construction industry employers within the meaning of section 4203(b)(1)(A) of ERISA.

(c) *Substantial overallocation not allowed.* No plan may adopt an allocation method or modification to an allocation method that results in a systematic and substantial overallocation of the plan's unfunded vested benefits.

(d) *Use of method prior to approval.* A plan may implement an alternative allocation method or modification to an allocation method that requires PBGC approval before that approval is given. However, the plan sponsor shall assess liability in accordance with this paragraph.

(1) *Demand for payment.* Until the PBGC approves the allocation method or modification, a plan may not demand withdrawal liability under section 4219 of ERISA in an amount that exceeds the lesser of the amount calculated under the amendment or the amount calculated under the allocation method that the plan would be required to use if the PBGC did not approve the amendment. The plan must inform each withdrawing employer of both amounts and explain that the higher amount may become payable depending on the PBGC's decision on the amendment.

(2) *Adjustment of liability.* When necessary because of the PBGC decision on the amendment, the plan shall adjust the amount demanded from each employer under paragraph (c)(1) of this section and the employer's withdrawal liability payment schedule. The length of the payment schedule shall be increased, as necessary. The plan shall notify each affected employer of the adjusted liability and payment schedule and shall collect the adjusted amount in accordance with the adjusted schedule.

§ 4211.22 Requests for PBGC approval.

(a) *General.* A plan shall submit a request for approval of an alternative allocation method or modification to an allocation method to the PBGC in accordance with the requirements of this section as soon as practicable after the adoption of the amendment.

(b) *Who shall submit.* The plan sponsor, or a duly authorized representative acting on behalf of the plan sponsor, shall sign the request.

(c) *Where to submit.* The plan shall submit the request by first class mail or courier service to Reports Processing, Insurance Operations Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005-4026, or by hand to the above address.

(d) *Content.* Each request shall contain the following information:

(1) The name, address and telephone number of the plan sponsor, and of the duly authorized representative, if any, of the plan sponsor.

(2) The name of the plan.

(3) The nine-digit Employer Identification Number (EIN) that the Internal Revenue Service assigned to the plan sponsor and the three-digit Plan Identification Number (PIN) that the plan sponsor assigned to the plan, and, if different, also the EIN-PIN that the plan last filed with the PBGC. If the plan has no EIN-PIN, the request shall so indicate.

(4) The date the amendment was adopted.

(5) A copy of the amendment, setting forth the full text of the alternative allocation method or modification.

(6) The allocation method that the plan currently uses and a copy of the plan amendment (if any) that adopted the method.

(7) A statement certifying that notice of the adoption of the amendment has been given to all employers that have an obligation to contribute under the plan and to all employee organizations that represent employees covered by the plan.

(e) *Additional information.* In addition to the information listed in paragraph (d) of this section, the PBGC may require the plan sponsor to submit any other information that the PBGC determines is necessary for the review of an alternative allocation method or modification to an allocation method.

(Approved by the Office of Management and Budget under control number 1212-0035)